State of Arizona House of Representatives Forty-sixth Legislature First Regular Session 2003

CHAPTER 200

HOUSE BILL 2520

AN ACT

AMENDING TITLE 12, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 12-115; AMENDING SECTIONS 21-202, 21-236, 21-315 AND 21-334, ARIZONA REVISED STATUTES; AMENDING TITLE 21, CHAPTER 2, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 21-222; AMENDING TITLE 21, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 21-335; REPEALING SECTION 21-336, ARIZONA REVISED STATUTES; AMENDING TITLE 21, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 21-336; AMENDING TITLE 21, CHAPTER 3, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 21-336.01; PROVIDING FOR THE DELAYED REPEAL OF SECTIONS 12-115, 21-222 AND 21-336.01, ARIZONA REVISED STATUTES; RELATING TO JURY SERVICE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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 Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 12, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 12-115, to read:

12-115. Additional filing, appearance and answer or response fees: deposit

- A. IN ADDITION TO ANY OTHER ASSESSMENT AUTHORIZED BY LAW, THE SUPREME COURT SHALL ESTABLISH AN ADDITIONAL FEE ON EACH FILING, APPEARANCE AND ANSWER OR RESPONSE FEE CHARGED BY A CLERK OF THE SUPERIOR COURT.
- B. THE CLERK SHALL COLLECT THE ADDITIONAL FEE AND MONTHLY REMIT THE ADDITIONAL FEES TO THE COUNTY TREASURER. THE COUNTY TREASURER SHALL TRANSMIT THE FEES TO THE STATE TREASURER ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH FOR DEPOSIT, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE ARIZONA LENGTHY TRIAL FUND ESTABLISHED BY SECTION 21-222. THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.
- C. THE ADDITIONAL FEE MAY BE DEFERRED OR WAIVED PURSUANT TO SECTIONS 12-302 AND 12-304.
- D. IN ESTABLISHING THE ADDITIONAL FEES UNDER SUBSECTION A OF THIS SECTION, THE SUPREME COURT MAY DESIGNATE BY RULE THAT THE ADDITIONAL FEES NOT BE IMPOSED ON FILINGS IN CASES THAT INVOLVE MINIMAL USE OF COURT RESOURCES OR THAT ARE NOT AFFORDED THE OPPORTUNITY FOR A TRIAL BY JURY.
 - Sec. 2. Section 21-202, Arizona Revised Statutes, is amended to read: 21-202. Persons entitled to be excused from jury service
- A. IT IS THE POLICY OF THIS STATE THAT ALL QUALIFIED CITIZENS HAVE AN OBLIGATION TO SERVE ON JURIES WHEN SUMMONED BY THE COURTS OF THIS STATE, UNLESS EXCUSED.
- B. The following persons shall, upon their timely application to the court, SHALL be excused TEMPORARILY from service as a juror IF ANY OF THE FOLLOWING APPLY:
- 1. Any person whose absence from his regular place of employment would, in the judgment of the court, tend materially and adversely to affect the public safety, health, welfare or interest.
- 2. Any person upon whom service as a juror would, in the judgment of the court, impose an undue hardship.
- 1. THE PROSPECTIVE JUROR HAS A MENTAL OR PHYSICAL CONDITION THAT CAUSES THE JUROR TO BE INCAPABLE OF PERFORMING JURY SERVICE. THE JUROR OR THE JUROR'S PERSONAL REPRESENTATIVE SHALL PROVIDE THE COURT WITH A MEDICAL STATEMENT FROM A PHYSICIAN WHO IS LICENSED PURSUANT TO TITLE 32 THAT VERIFIES THAT A MENTAL OR PHYSICAL CONDITION RENDERS THE PERSON UNFIT FOR JURY SERVICE.
- 2. JURY SERVICE BY THE PROSPECTIVE JUROR WOULD SUBSTANTIALLY AND MATERIALLY AFFECT THE PUBLIC INTEREST OR WELFARE IN AN ADVERSE MANNER.
- 3. JURY SERVICE WOULD CAUSE UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP TO THE PROSPECTIVE JUROR OR A PERSON UNDER THE PROSPECTIVE JUROR'S CARE OR SUPERVISION. FOR THE PURPOSES OF THIS PARAGRAPH:

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- (a) A JUDGE OR JURY COMMISSIONER OF THE COURT FOR WHICH THE PERSON WAS CALLED TO JURY SERVICE SHALL DETERMINE WHETHER JURY SERVICE WOULD CAUSE THE PROSPECTIVE JUROR UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP.
- (b) A PERSON WHO REQUESTS TO BE EXCUSED UNDER THIS PARAGRAPH SHALL TAKE ALL ACTIONS NECESSARY TO OBTAIN A RULING ON THE REQUEST BEFORE THE DATE ON WHICH THE PERSON IS SCHEDULED TO APPEAR FOR JURY DUTY.
- (c) UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP IS LIMITED TO THE FOLLOWING CIRCUMSTANCES IN WHICH A PERSON:
- (i) WOULD BE REQUIRED TO ABANDON A PERSON UNDER THE POTENTIAL JUROR'S CARE OR SUPERVISION DUE TO THE IMPOSSIBILITY OF OBTAINING AN APPROPRIATE SUBSTITUTE CAREGIVER DURING THE PERIOD OF PARTICIPATION IN THE JURY POOL OR ON THE JURY.
- (ii) WOULD INCUR COSTS THAT WOULD HAVE A SUBSTANTIAL ADVERSE IMPACT ON THE PAYMENT OF THE PERSON'S NECESSARY DAILY LIVING EXPENSES OR ON THOSE FOR WHOM THE POTENTIAL JUROR PROVIDES REGULAR EMPLOYMENT OR THE PRINCIPAL MEANS OF SUPPORT.
- (iii) WOULD SUFFER PHYSICAL HARDSHIP THAT WOULD RESULT IN ILLNESS OR DISEASE.
 - (iv) IS NOT CURRENTLY CAPABLE OF UNDERSTANDING THE ENGLISH LANGUAGE.
- (d) UNDUE OR EXTREME PHYSICAL OR FINANCIAL HARDSHIP DOES NOT EXIST SOLELY BASED ON THE FACT THAT A PROSPECTIVE JUROR WILL BE REQUIRED TO BE ABSENT FROM THE PROSPECTIVE JUROR'S PLACE OF EMPLOYMENT.
- (e) A PERSON WHO REQUESTS TO BE EXCUSED UNDER THIS PARAGRAPH SHALL PROVIDE THE JUDGE OR JURY COMMISSIONER WITH DOCUMENTATION THAT SUPPORTS THE REQUEST TO BE EXCUSED, SUCH AS FEDERAL AND STATE INCOME TAX RETURNS, PAYROLL RECORDS, MEDICAL STATEMENTS FROM PHYSICIANS LICENSED PURSUANT TO TITLE 32, PROOF OF DEPENDENCY OR GUARDIANSHIP OR OTHER SIMILAR DOCUMENTS. THE JUDGE OR JURY COMMISSIONER MAY EXCUSE A PERSON IF THE DOCUMENTATION CLEARLY SUPPORTS THE REQUEST TO BE EXCUSED. THESE DOCUMENTS ARE NOT PUBLIC RECORDS AND SHALL NOT BE DISCLOSED TO THE GENERAL PUBLIC.
- C. A PERSON WHO IS EXCUSED TEMPORARILY PURSUANT TO THIS SECTION BECOMES ELIGIBLE FOR QUALIFICATION AS A JUROR WHEN THE TEMPORARY EXCUSE EXPIRES UNLESS THE PERSON IS PERMANENTLY EXCUSED FROM JURY SERVICE.
- D. A PERSON MAY BE PERMANENTLY EXCUSED ONLY IF THE DECIDING JUDGE OR JURY COMMISSIONER DETERMINES THAT THE UNDERLYING GROUNDS FOR BEING EXCUSED ARE PERMANENT IN NATURE.
- Sec. 3. Title 21, chapter 2, article 3, Arizona Revised Statutes, is amended by adding section 21-222, to read:
 - 21-222. Arizona lengthy trial fund
- A. THE ARIZONA LENGTHY TRIAL FUND IS ESTABLISHED CONSISTING OF MONIES RECEIVED FROM THE ADDITIONAL FEES PAID ON ALL FILINGS, APPEARANCES, RESPONSES AND ANSWERS PURSUANT TO SECTION 12-115. THE MONIES IN THE FUND SHALL NOT BE 43 USED FOR ANY PURPOSE OTHER THAN AS PRESCRIBED IN THIS SECTION.

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- B. THE SUPREME COURT SHALL ADMINISTER THE FUND AND SHALL ADOPT RULES FOR THE ADMINISTRATION OF THE FUND. NOT MORE THAN THREE PER CENT OF THE MONIES IN THE FUND SHALL BE USED FOR THE REASONABLE AND NECESSARY COSTS OF ADMINISTERING THE FUND. ON OR BEFORE THE FIFTEENTH DAY OF EACH MONTH, ON RECEIPT OF A REQUEST FOR REIMBURSEMENT THE SUPREME COURT SHALL TRANSMIT MONIES FROM THE FUND TO A JURY COMMISSIONER FOR MONIES PAID TO A JUROR UNDER THIS SECTION, TOGETHER WITH A FEE OF NOT LESS THAN THE AMOUNT PRESCRIBED IN SECTION 12-284, SUBSECTION A, CLASS E FOR EACH APPLICATION FOR PAYMENT OF REPLACEMENT OR SUPPLEMENTAL EARNINGS BY A JUROR.
- C. BEGINNING ON JULY 1, 2004 AND SUBJECT TO THE AVAILABILITY OF MONIES. FOR JURY TRIALS THAT COMMENCE ON OR AFTER JULY 1, 2004, MONIES IN THE FUND SHALL BE USED TO PAY FULL OR PARTIAL EARNINGS REPLACEMENT OR SUPPLEMENTATION TO JURORS WHO SERVE AS PETIT JURORS FOR MORE THAN TEN DAYS AND WHO RECEIVE LESS THAN FULL COMPENSATION. THE AMOUNT OF REPLACEMENT OR SUPPLEMENTAL EARNINGS SHALL BE AT LEAST FORTY DOLLARS BUT NOT MORE THAN THREE HUNDRED DOLLARS PER DAY PER JUROR BEGINNING ON THE ELEVENTH DAY OF JURY SERVICE AND AT LEAST FORTY DOLLARS BUT NOT MORE THAN ONE HUNDRED DOLLARS PER DAY FROM THE FOURTH DAY TO THE TENTH DAY OF JURY SERVICE.
- D. BEGINNING ON JULY 1, 2004, A JUROR WHOSE JURY SERVICE LASTS MORE THAN TEN DAYS MAY SUBMIT A REQUEST FOR PAYMENT FROM THE FUND. THE AMOUNT A JUROR RECEIVES FROM THE FUND IS LIMITED TO THE DIFFERENCE BETWEEN THE STATE PAID JURY FEE AND THE ACTUAL AMOUNT OF EARNINGS A JUROR EARNS, NOT LESS THAN FORTY DOLLARS, UP TO THE MAXIMUM LEVEL PAYABLE UNDER SUBSECTION C OF THIS SECTION, MINUS ANY AMOUNT THE JUROR ACTUALLY RECEIVED FROM THE JUROR'S EMPLOYER DURING THE SAME TIME PERIOD. A JUROR WHO REQUESTS PAYMENT FROM THE FUND:
- 1. SHALL DISCLOSE ON THE FORM THE JUROR'S REGULAR EARNINGS. THE AMOUNT THE JUROR'S EMPLOYER WILL PAY DURING THE TERM OF JURY SERVICE STARTING ON THE ELEVENTH DAY AND THEREAFTER. THE AMOUNT OF REPLACEMENT OR SUPPLEMENTAL EARNINGS BEING REQUESTED AND ANY OTHER INFORMATION THAT THE JURY COMMISSIONER DEEMS NECESSARY.
- BEFORE RECEIVING PAYMENT FROM THE FUND, SHALL SUBMIT VERIFICATION FROM THE JUROR'S EMPLOYER REGARDING THE EARNINGS INFORMATION THAT IS PROVIDED UNDER PARAGRAPH 1 OF THIS SUBSECTION. THIS VERIFICATION MAY INCLUDE THE EMPLOYEE'S MOST RECENT EARNINGS STATEMENT OR A SIMILAR DOCUMENT.
- 3. IN ORDER TO VERIFY THE WEEKLY INCOME IF THE JUROR IS SELF-EMPLOYED OR RECEIVES COMPENSATION OTHER THAN WAGES, SHALL PROVIDE A SWORN AFFIDAVIT ATTESTING TO THE JUROR'S APPROXIMATE GROSS WEEKLY INCOME, TOGETHER WITH ANY OTHER INFORMATION THAT THE SUPREME COURT REQUIRES.
- E. THE SUPREME COURT SHALL ANNUALLY REPORT TO THE JOINT LEGISLATIVE BUDGET COMMITTEE ON THE AMOUNT OF MONIES COLLECTED AND DISBURSED FROM THE 42 FUND AND THE NUMBER OF JURORS WHO RECEIVED MONIES FROM THE FUND.

Sec. 4. Section 21-236, Arizona Revised Statutes, is amended to read: 21-236. Absence from employment for jury duty; vacation and seniority rights; automatic postponement; violation; classification

- A. AN EMPLOYER SHALL NOT REQUIRE OR REQUEST AN EMPLOYEE TO USE ANNUAL, VACATION OR SICK LEAVE FOR TIME SPENT RESPONDING TO A SUMMONS FOR JURY DUTY, PARTICIPATING IN THE JURY SELECTION PROCESS OR ACTUALLY SERVING ON A JURY. THIS SUBSECTION DOES NOT REQUIRE AN EMPLOYER TO PROVIDE ANNUAL, VACATION OR SICK LEAVE TO EMPLOYEES WHO ARE OTHERWISE NOT ENTITLED TO SUCH BENEFITS UNDER COMPANY POLICIES.
- A. B. An employer shall not refuse to permit an employee to take a leave of absence from employment for the purpose of serving SERVE as a juror. No employer may dismiss or in any way penalize any employee because he THE EMPLOYEE serves as a grand or trial juror, provided, however, that. An employer shall IS not be required to compensate an employee when the employee is absent from his employment because of his jury service. Any absences from employment shall not affect vacation rights which employees otherwise have.
- 8. C. An employee shall not lose seniority or precedence while absent from his employment due to his serving as a member of a grand or trial jury. Upon return to employment the employee shall be returned to his THE EMPLOYEE'S previous position, or to a higher position commensurate with his THE EMPLOYEE'S ability and experience as seniority or precedence would ordinarily entitle him THE EMPLOYEE.
- D. A COURT SHALL POSTPONE AND RESCHEDULE THE SERVICE OF A SUMMONED JUROR OF AN EMPLOYER WITH FIVE OR FEWER FULL-TIME EMPLOYEES, OR THEIR EQUIVALENT, IF DURING THE SAME PERIOD ANOTHER EMPLOYEE OF THAT EMPLOYER IS SERVING AS A JUROR. A POSTPONEMENT PURSUANT TO THIS SUBSECTION DOES NOT AFFECT A PERSON'S RIGHT TO ONE AUTOMATIC POSTPONEMENT UNDER SECTION 21-336.
- C. E. A person who violates any provision of this section is guilty of a class 3 misdemeanor.
 - Sec. 5. Section 21-315, Arizona Revised Statutes, is amended to read: 21-315. Excuse from service; investigation
- A. Where IF a person's answers to a questionnaire indicate that he THE PERSON is unqualified for jury service or, in the opinion of the JUDGE OR jury commissioner, state grounds sufficient to be excused from jury service, his, THE PERSON'S name shall not be included on the qualified juror list and the THE PERSON shall be notified that he is excused from jury service.
- B. The jury commissioner may investigate the accuracy of the answers to the questionnaire and may call upon law enforcement agencies for assistance in the investigation.
 - Sec. 6. Section 21-334, Arizona Revised Statutes, is amended to read: 21-334. Failure of juror to attend; fine
- IT IS UNLAWFUL FOR A juror who is summoned AND WHO FAILS TO OBTAIN A POSTPONEMENT OR WHO IS NOT EXCUSED FROM JURY SERVICE and who TO wilfully and

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without reasonable excuse fails FAIL to attend ON THE DATE SCHEDULED FOR JURY SERVICE. THE JUROR may be attached as for a direct contempt of court and may be compelled to attend ON THE DATE SCHEDULED FOR JURY SERVICE, and a fine not exceeding one FIVE hundred dollars may be imposed by the court for nonattendance upon the court.

Sec. 7. Title 21, chapter 3, article 3, Arizona Revised Statutes, is amended by adding section 21–335, to read:

21-335. Frequency of service; exemption

- A. A JUROR WHO HAS BEEN SUMMONED AND SELECTED TO SERVE ON A JURY IN THIS STATE IS NOT REQUIRED TO SERVE AGAIN AS A JUROR IN ANY COURT IN THIS STATE FOR TWO YEARS FOLLOWING THE LAST DAY OF THE JUROR'S SERVICE.
- B. A PRESIDING JUDGE, IN COORDINATION WITH THE JURY COMMISSIONER, MAY APPLY TO THE SUPREME COURT FOR AN EXEMPTION FROM THIS SECTION FOR A SPECIFIED PERIOD OF TIME, NOT TO EXCEED ONE YEAR.

Sec. 8. Repeal

Section 21-336, Arizona Revised Statutes, is repealed from and after December 31, 2003.

Sec. 9. Title 21, chapter 3, article 3, Arizona Revised Statutes, is amended by adding a new section 21-336, to read:

21-336. Postponement of jury service

- A. PERSONS WHO ARE SCHEDULED TO APPEAR FOR JURY SERVICE MAY POSTPONE THE DATE OF THEIR INITIAL APPEARANCE FOR JURY SERVICE TWO TIMES ONLY. ON REQUEST, POSTPONEMENT SHALL BE GRANTED IF ALL OF THE FOLLOWING APPLY:
- 1. THE PROSPECTIVE JUROR HAS NOT PREVIOUSLY BEEN GRANTED A POSTPONEMENT.
- 2. THE PROSPECTIVE JUROR APPEARS IN PERSON OR CONTACTS THE JURY COMMISSIONER BY TELEPHONE, ELECTRONIC MAIL OR IN WRITING TO REQUEST A POSTPONEMENT.
- 3. A POSTPONEMENT SHALL NOT BE FOR MORE THAN THREE MONTHS AFTER THE DATE ON WHICH THE PROSPECTIVE JUROR ORIGINALLY WAS CALLED TO SERVE AND SHALL BE A DATE WHEN THE COURT WILL BE IN SESSION.
- B. A JURY COMMISSIONER MAY APPROVE A SUBSEQUENT REQUEST FOR POSTPONEMENT OF JURY SERVICE ONLY IN THE EVENT OF AN EXTREME EMERGENCY THAT COULD NOT HAVE BEEN ANTICIPATED AT THE TIME THE INITIAL POSTPONEMENT WAS GRANTED. THE PROSPECTIVE JUROR IS SUBJECT TO BEING RESUMMONED AT THE DISCRETION OF THE JURY COMMISSIONER.

Sec. 10. <u>Delayed repeal</u>

Section 21-336.01, Arizona Revised Statutes, is repealed effective from after December 31, 2004.

Sec. 11. Title 21, chapter 3, article 3, Arizona Revised Statutes, is amended by adding a new section 21-336.01, to read:

21-336.01. Jurors' term of service; exemption

A. A PERSON'S JURY SERVICE OBLIGATION IS FULFILLED WHEN THE PERSON DOES ANY OF THE FOLLOWING:

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- 1. SERVES ON ONE TRIAL UNTIL BEING EXCUSED OR DISCHARGED.
- 2. APPEARS AT COURT BUT IS NOT ASSIGNED TO A TRIAL DIVISION FOR SELECTION OF A JURY BEFORE THE END OF THAT DAY.
- 3. IS ASSIGNED ON ONE DAY TO ONE OR MORE TRIAL DIVISIONS FOR JURY SELECTION AND SERVES THROUGH THE COMPLETION OF JURY SELECTION OR IS EXCUSED.
- 4. COMPLIES WITH A REQUEST TO TELEPHONE A COURT OR CHECK A COURT'S WEB SITE TO DETERMINE WHETHER TO REPORT ON A PARTICULAR DAY, FOR FOUR DAYS WITHIN A THIRTY DAY PERIOD.
- 5. PROVIDES THE COURT WITH A VALID TELEPHONE NUMBER AND STANDS READY TO SERVE ON THE SAME DAY, FOR A PERIOD OF TWO DAYS.
- B. A PRESIDING JUDGE OF A COUNTY SUPERIOR COURT, IN COORDINATION WITH THE JURY COMMISSIONER, MAY APPLY TO THE SUPREME COURT FOR AN EXEMPTION FOR THE COUNTY FROM THIS SECTION FOR A SPECIFIED PERIOD OF TIME, NOT TO EXCEED ONE YEAR.

Sec. 12. Effective dates

- A. Sections 12-115, 21-222, 21-335 and 21-336, Arizona Revised Statutes, as added by this act, and sections 21-202, 21-236, 21-315 and 21-334, Arizona Revised Statutes, as amended by this act, are effective from and after December 31, 2003.
- 8. Section 21-336.01, Arizona Revised Statutes, as added by this act, is effective from and after December 31, 2004.

Sec. 13. Delayed repeal

- A. Section 12-115, Arizona Revised Statutes, as added by this act, is repealed on December 31, 2013.
- B. Section 21-222, Arizona Revised Statutes, as added by this act, is repealed on July 1, 2014.

APPROVED BY THE GOVERNOR MAY 12, 2003.

FILES IN THE OFFICE OF THE SECRETARY OF STATE MAY 13, 2003.



Passed the House <u>March 12</u> , 20 <u>03</u> ,	Passed the Senate May 1, 20 03
by the following vote:33Ayes,	by the following vote:Ayes,
Nays, 3 Not Voting	Nays, Not Voting
Speaker of the House	President of the Senate
Chief Clerk of the House	Secretary of the Semple
	PARTMENT OF ARIZONA E OF GOVERNOR
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Governor of Arizona	
	EXECUTIVE DEPARTMENT OF ARIZONA
	OFFICE OF SECRETARY OF STATE
	This Bill was received by the Secretary of State
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H.B. 2520	
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	Secretary of State

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE
<u>Jyay 7</u> , 20 <u>03</u> ,
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by the following vote: 35 Ayes,
Nays, 5 Not Voting Speaker of the House
Morre Chief Clerk of the House
EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF GOVERNOR
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Approved this day of
at 715 o'clock A. M.
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Governor of Arizona EXECUTIVE DEPARTMENT OF ARIZONA OFFICE OF SECRETARY OF STATE
This Bill was received by the Secretary of State
this 13 day of May , 2003
H.B. 2520 M. O'clock M.
Secretary of State